

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

NOUANSAVANH RASAVONG,

Plaintiff,

v.

J. RUIZ et al.,

Defendants.

Case No. 2:16-cv-01121-JAD-GWF

ORDER

I. DISCUSSION

On February 5, 2018, the Court issued a screening order that dismissed some claims with leave to amend and permitted other claims to proceed. (ECF No. 24 at 14-15). The Court granted Plaintiff 30 days from the date of that order to file a third amended complaint curing the deficiencies of his second amended complaint. (*Id.* at 15). The Court specifically stated that if Plaintiff chose not to file a second amended complaint, the action would proceed on count 1 (excessive force) against Defendant Ruiz; count 2 (retaliation) against Defendant Ruiz; count 4 (state law assault and battery) against Defendant Ruiz; and count 5 (conspiracy) against Defendants Ruiz and Joseph only. (*Id.*). Plaintiff has not filed a third amended complaint. Pursuant to the screening order, this action shall proceed on count 1 (excessive force) against Defendant Ruiz; count 2 (retaliation) against Defendant Ruiz; count 4 (state law assault and battery) against Defendant Ruiz; and count 5 (conspiracy) against Defendants Ruiz and Joseph only.

///

1 **II. CONCLUSION**

2 For the foregoing reasons, IT IS ORDERED that, pursuant to the Court's screening
3 order (ECF No. 24), this action shall proceed on count 1 (excessive force) against
4 Defendant Ruiz; count 2 (retaliation) against Defendant Ruiz; count 4 (state law assault
5 and battery) against Defendant Ruiz; and count 5 (conspiracy) against Defendants Ruiz
6 and Joseph only.

7 IT IS FURTHER ORDERED that given the nature of the claim(s) that the Court has
8 permitted to proceed, this action is STAYED for ninety (90) days to allow Plaintiff and
9 Defendant(s) an opportunity to settle their dispute before an answer is filed¹ or the
10 discovery process begins. During this ninety-day stay period, no other pleadings or
11 papers shall be filed in this case, and the parties shall not engage in any discovery. The
12 Court will refer this case to the Court's Inmate Early Mediation Program, and the Court
13 will enter a subsequent order. Regardless, on or before ninety (90) days from the date
14 this order is entered, the Office of the Attorney General shall file the report form attached
15 to this order regarding the results of the 90-day stay, even if a stipulation for dismissal is
16 entered prior to the end of the 90-day stay. If the parties proceed with this action, the
17 Court will then issue an order setting a date for Defendants to file an answer or other
18 response. Following the filing of an answer, the Court will issue a scheduling order setting
19 discovery and dispositive motion deadlines.

20 IT IS FURTHER ORDERED that "settlement" may or may not include payment of
21 money damages. It also may or may not include an agreement to resolve Plaintiff's issues
22 differently. A compromise agreement is one in which neither party is completely satisfied
23 with the result, but both have given something up and both have obtained something in
24 return.

25 IT IS FURTHER ORDERED that if any party seeks to have this case excluded from
26 the inmate mediation program, that party shall file a "motion to exclude case from
27 _____

28 ¹ The Court acknowledges that Defendants filed an answer on March 23, 2018.
(ECF No. 27). If Defendants seek to exclude the case from the inmate mediation program
in light of their answer, they should file the appropriate motion within the specified time.

1 mediation” on or before twenty-one (21) days from the date of this order. The responding
2 party shall have seven (7) days to file a response. No reply shall be filed. Thereafter, the
3 Court will issue an order, set the matter for hearing, or both.

4 IT IS FURTHER ORDERED that the Clerk of the Court shall electronically SERVE
5 a copy of this order, the original screening order (ECF No. 24) and a copy of Plaintiff’s
6 second amended complaint (ECF No. 25) on the Office of the Attorney General of the
7 State of Nevada, by adding the Attorney General of the State of Nevada to the docket
8 sheet. This does not indicate acceptance of service.

9 IT IS FURTHER ORDERED that the Attorney General’s Office shall advise the
10 Court within twenty-one (21) days of the date of the entry of this order whether it will enter
11 a limited notice of appearance on behalf of Defendants for the purpose of settlement. No
12 defenses or objections, including lack of service, shall be waived as a result of the filing
13 of the limited notice of appearance.

14
15 DATED THIS 26th day of March 2018.

16
17 
18 United States Magistrate Judge
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NOUANSAVANH RASAVONG,
Plaintiff,
v.
J. RUIZ et al.,
Defendants.

Case No. 2:16-cv-01121-JAD-GWF
REPORT OF ATTORNEY GENERAL
RE: RESULTS OF 90-DAY STAY

**NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM.
THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**

On _____ [*the date of the issuance of the screening order*], the Court issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C. § 1915A, and that certain specified claims in this case would proceed. The Court ordered the Office of the Attorney General of the State of Nevada to file a report ninety (90) days after the date of the entry of the Court’s screening order to indicate the status of the case at the end of the 90-day stay. By filing this form, the Office of the Attorney General hereby complies.

///
///
///
///
///

1 **REPORT FORM**

2 [Identify which of the following two situations (identified in bold type) describes the case,
3 and follow the instructions corresponding to the proper statement.]

4 **Situation One: Mediated Case: The case was assigned to mediation by a court-**
5 **appointed mediator during the 90-day stay.** [If this statement is accurate, check **ONE**
6 of the six statements below and fill in any additional information as required, then proceed
7 to the signature block.]

8 ☐ A mediation session with a court-appointed mediator was held on
9 _____ [enter date], and as of this date, the parties have
10 reached a settlement (even if paperwork to memorialize the settlement
11 remains to be completed). (If this box is checked, the parties are on notice
12 that they must SEPARATELY file either a contemporaneous stipulation of
13 dismissal or a motion requesting that the Court continue the stay in the case
14 until a specified date upon which they will file a stipulation of dismissal.)

15 ☐ A mediation session with a court-appointed mediator was held on
16 _____ [enter date], and as of this date, the parties have not
17 reached a settlement. The Office of the Attorney General therefore informs
18 the Court of its intent to proceed with this action.

19 ☐ No mediation session with a court-appointed mediator was held during the
20 90-day stay, but the parties have nevertheless settled the case. (If this box
21 is checked, the parties are on notice that they must SEPARATELY file a
22 contemporaneous stipulation of dismissal or a motion requesting that the
23 Court continue the stay in this case until a specified date upon which they
24 will file a stipulation of dismissal.)

25 ☐ No mediation session with a court-appointed mediator was held during the
26 90-day stay, but one is currently scheduled for _____ [enter
27 date].

28 ☐ No mediation session with a court-appointed mediator was held during the
90-day stay, and as of this date, no date certain has been scheduled for
such a session.

☐ None of the above five statements describes the status of this case.
Contemporaneously with the filing of this report, the Office of the Attorney
General of the State of Nevada is filing a separate document detailing the
status of this case.

*** **

23 **Situation Two: Informal Settlement Discussions Case: The case was NOT assigned**
24 **to mediation with a court-appointed mediator during the 90-day stay; rather, the**
25 **parties were encouraged to engage in informal settlement negotiations.** [If this
statement is accurate, check **ONE** of the four statements below and fill in any additional
information as required, then proceed to the signature block.]

26 ☐ The parties engaged in settlement discussions and as of this date, the
27 parties have reached a settlement (even if the paperwork to memorialize
28 the settlement remains to be completed). (If this box is checked, the parties
are on notice that they must SEPARATELY file either a contemporaneous
stipulation of dismissal or a motion requesting that the Court continue the
stay in this case until a specified date upon which they will file a stipulation

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

of dismissal.)

_____ The parties engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ The parties have not engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ None of the above three statements fully describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

Submitted this _____ day of _____, _____ by:

Attorney Name:	_____	_____
	Print	Signature
Address:	_____	Phone: _____
	_____	_____
		Email: _____